

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

* * *

STEVEN MILLER.

Plaintiff,

V.

STATE OF ARIZONA DEPARTMENT OF
CORRECTIONS, et al.,

Defendant

Case No. 2:14-cv-00628-APG-CWH

Order Accepting Report and Recommendation

(Dkt. ##8,11)

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11 Magistrate Judge Hoffman entered his Order (Dkt. #5) dismissing plaintiff Steven Miller's
12 complaint for failure to plead sufficient facts to state claims upon which relief can be granted.
13 Miller filed a "letter of appeal." (Dkt. #8.) Magistrate Judge Hoffman entered another Order
14 (Dkt. #10) denying Miller's repeated request for appointment of counsel. Miller filed another
15 letter (Dkt. #11) again requesting appointment of counsel. I treat Miller's letters (Dkt. ## 8, 11)
16 as objections to Magistrate Judge Hoffman's Orders (Dkt. ## 5, 10).

17 Neither of Miller’s objections addresses the substance of Magistrate Judge Hoffman’s
18 Order dismissing the complaint. Instead, both letters request appointment of counsel. Magistrate
19 Judge Hoffman’s Order dismissing the complaint (Dkt. #5) is not clearly erroneous or contrary to
20 law; rather, the Order sets forth the proper legal analysis and factual basis for his decision. As
21 such, it is affirmed. Plaintiff may file an amended complaint if he has sufficient facts to support
22 his claims. Magistrate Judge Hoffman’s Order details the deficiencies in the current complaint.

23 I also agree with Magistrate Judge Hoffman that there is insufficient evidence of
24 exceptional circumstances to warrant appointment of counsel. (Dkt. #10.) This appears to be a
25 simple discrimination case, not an exceptional one, and plaintiff appears able to articulate his
26 claims sufficiently. *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986). Plaintiff is free
27 to seek pro bono counsel from those local organizations that provide such representation, or to

1 contact the Nevada State Bar Association to attempt to obtain referrals to such counsel. But he is
2 not entitled to appointment of counsel by this court.

3 IT IS HEREBY ORDERED that plaintiff's objections (Dkt. ##8, 11) are OVERRULED.

4 IT IS FURTHER ORDERED that Magistrate Judge Hoffman's Orders (Dkt. #5, 10) are
5 AFFIRMED. Plaintiff's complaint (Dkt. #6) is **dismissed without prejudice**, with leave to
6 amend.

7 IT IS FURTHER ORDERED that plaintiff has 30 days from entry of this Order in which
8 to file an amended complaint. Failure to file an amended complaint within that time will result in
9 this action being dismissed.

10 Dated: February 27, 2014.



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12 ANDREW P. GORDON
13 UNITED STATES DISTRICT JUDGE
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